

Regular Session, 2009

HOUSE BILL NO. 785

BY REPRESENTATIVE SAM JONES

DISTRICTS/SPECIAL: Creates the St. Mary Hydroelectric Authority as a political subdivision within St. Mary Parish

1 AN ACT

2 To enact Chapter 10-E of Title 33 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 33:4550.1 through 4550.12, relative to St. Mary Parish; to create
4 and provide for the St. Mary Hydroelectric Authority as a political subdivision
5 within such parish; to provide for the boundaries, governance, and powers and duties
6 of the district; to provide for district funding, including the issuance of bonds and the
7 use of district funds; and to provide for related matters.

8 Notice of intention to introduce this Act has been published
9 as provided by Article III, Section 13 of the Constitution of
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter 10-E of Title 33 of the Louisiana Revised Statutes of 1950,
13 comprised of R.S. 33:4550.1 through 4550.12, is hereby enacted to read as follows:

14 CHAPTER 10-E. ST. MARY HYDROELECTRIC AUTHORITY

15 §4550.1. Creation

16 All the territory in the parish of St. Mary lying within the watershed of the
17 Wax Lake Outlet and the Atchafalaya River and their tributaries, shall be embraced
18 in the limits of and shall constitute a district to be known as the St. Mary
19 Hydroelectric Authority, referred to in this Section as the "district".

1 §4550.2. Board of commissioners

2 A. The governing authority of the district shall be vested in a board of
3 commissioners, referred to in this Chapter as the "board", composed of eleven
4 members. The board shall be composed as follows:

5 (1) The state representative who represents House District No. 50, or his
6 designee.

7 (2) The state representative who represents House District No. 51, or his
8 designee.

9 (3) The state senator who represents Senate District No. 21, or his designee.

10 (4) The president of St. Mary Parish shall appoint two members subject to
11 the approval of the parish governing authority.

12 (5) The mayor of the town of Baldwin shall appoint one member subject to
13 the approval of the municipal governing authority.

14 (6) The mayor of the town of Berwick shall appoint one member subject to
15 the approval of the municipal governing authority.

16 (7) The mayor of the city of Franklin shall appoint one member subject to
17 the approval of the municipal governing authority.

18 (8) The mayor of the city of Morgan City shall appoint one member subject
19 to the approval of the municipal governing authority.

20 (9) The mayor of the city of Patterson shall appoint one member subject to
21 the approval of the municipal governing authority.

22 (10) The chief of the sovereign nation of the Chitimacha Tribe of Louisiana
23 shall appoint one member subject to the approval of the tribal council, or one
24 member shall be appointed pursuant to any method determined by the tribal council.

25 B.(1) The members serving pursuant to Paragraphs (A)(4) through (10) of
26 this Section shall serve four-year terms after serving initial terms as provided in this
27 Paragraph. Two members shall serve an initial term of one year; two shall serve two
28 years; two shall serve three years; and two shall serve four years as determined by
29 lot at the first meeting of the board.

1 (2) Each member serving pursuant to Paragraphs (A)(1) through (3) of this
2 Section shall serve during his term of office. Each designee shall serve at the
3 pleasure of the designating authority.

4 C. Six members of the board shall constitute a quorum for the transaction of
5 business.

6 D. Any vacancy which occurs prior to the expiration of the term for which
7 a member of the board has been appointed shall be filled for the remainder of the
8 unexpired term in the same manner as the original appointment.

9 E. The board shall fix a time and place for the holding of its regular meetings
10 and shall hold at least one regular meeting in each calendar month. Special meetings
11 may be held upon call of the chairman or four members of the board at such time and
12 place as may be designated, after written notification to the full membership. The
13 board shall hold no more than two special meetings during one calendar year.

14 F. Each member of the board shall serve without compensation but shall be
15 entitled to be reimbursed for expenses actually incurred in attending meetings of the
16 board or its committees, or in the transaction of any business of the authority, when
17 such business has been authorized by the board.

18 G. The board shall elect from its members a chairman, a vice chairman, and
19 such other officers as it may deem necessary. The board shall also select a secretary
20 and a treasurer, or a secretary-treasurer who need not be members of the board. The
21 duties of the officers shall be fixed by the bylaws adopted by the board; however, it
22 shall be the duty of the secretary to preserve a record of all business transacted by
23 the board and to perform such other duties as the board may designate. The board
24 may fix the compensation of any secretary or treasurer who is not a member of the
25 board.

26 H. The board shall adopt such bylaws and rules and regulations for the
27 orderly transaction of its business and affairs as it may deem fit. It may appoint and
28 retain all employees it may consider desirable, including engineers and attorneys
29 specifically including, but not limited to a special counsel who shall be charged with

1 negotiating or renegotiating contracts dealing with fees paid to the district for goods
2 or services and any other duties the board may assign. The board may appoint a
3 general manager, experienced in the field of electrical generation, management, or
4 sales as well as personnel, budgetary, and other administrative fields; and may
5 provide that all or certain classes of employees shall be employed and discharged by
6 the general manager.

7 §4550.3. Status; suits; process; exemption from taxation

8 A. The district is hereby declared to be an political subdivision of the state
9 of Louisiana as defined in the Constitution of Louisiana and an agency and
10 instrumentality of the state of Louisiana required by the public convenience and
11 necessity for the carrying out of the functions of the state, and to be a corporation
12 and body politic and corporate, with power of perpetual succession, invested with
13 all powers, privileges, rights, and immunities conferred by law upon other
14 corporations of like character, including but not limited to port authorities, port
15 commissions, and port, harbor, and terminal districts within the state.

16 B. The district shall not have the power to levy taxes but it may assess and
17 collect charges, fees, and rentals for the use of its properties and facilities and for the
18 construction, installation, maintenance, and operation of any property or facility
19 owned by it or in which it has an interest. The district shall have and possess the
20 authority to sue and be sued. All legal process shall be served upon the chairman of
21 the board.

22 C. The domicile of the district shall be within St. Mary Parish.

23 D. The district, in carrying out the purposes of this Chapter, shall be
24 performing an essential public function of the state of Louisiana and shall not be
25 required to pay any tax or assessment on its properties or any part thereof, nor to pay
26 any excise, license, or other tax or imposition on its operating revenues, and the
27 bonds issued pursuant to this Chapter and their transfer and the income therefrom
28 shall at all times be exempt from taxation within the state.

1 E. The district shall not be deemed to be an instrumentality of the state for
2 purposes of Article X, Section 1(A) of the Constitution of Louisiana.

3 §4550.4. Powers

4 A. The district shall have the power:

5 (1) To have a corporate seal.

6 (2) To acquire by purchase, gift, devise, lease, expropriation, or other mode
7 of acquisition, to hold, pledge, encumber, lease, and dispose of real and personal
8 property of every kind within its territorial jurisdiction, whether or not subject to
9 mortgage or any other lien.

10 (3) To make and enter into contracts, conveyances, mortgages, deeds or
11 trusts, bonds, and leases in the carrying out of its corporate objectives, including but
12 not limited to contracts for the legal services of a special counsel.

13 (4) To let contracts for the construction or acquisition in any other manner
14 of property and facilities incident to the carrying out of the corporate purposes of the
15 district, which contracts shall be let as otherwise provided by law.

16 (5) To incur debts and borrow money, but no debt so incurred shall be
17 payable from any source other than the revenues to be derived by the district from
18 sources other than taxation.

19 (6) To fix, maintain, collect, and revise rates, charges, and rentals for the
20 facilities of the district and the services rendered thereby, including but not limited
21 to all charges for services and goods provided by or through the Wax Lake Outlet
22 and the Atchafalaya River.

23 (7) To pledge all or any part of its revenues.

24 (8) To enter into agreements of any nature with any person, corporation,
25 association, or other entity, including public corporations, political subdivisions,
26 municipalities, and federal and state agencies and instrumentalities of every kind, for
27 the operation of all or any part of the properties and facilities of the district.

28 (9) To do all things necessary or convenient to carry out its functions.

1 (10) To control in order to utilize and distribute the waters of the rivers and
2 streams of the Wax Lake Outlet and the Atchafalaya River watershed, including but
3 not limited to all waters flowing through the Wax Lake Outlet and the Atchafalaya
4 River; and in addition to all of the aforementioned powers for the beneficial
5 utilization of water resources, to control and employ such waters of the Wax Lake
6 Outlet and the Atchafalaya River and its tributaries in the state of Louisiana,
7 including the storm and flood waters thereof, as hereinafter set forth:

8 (a) To provide through practical and legal means for the use and
9 coordination of the regulation of the waters of the Wax Lake Outlet and the
10 Atchafalaya River and its tributaries.

11 (b) To provide by adequate organization and administration for the
12 preservation of the equitable rights of the people of the different sections of the
13 watershed area in the beneficial use of the waters of the Wax Lake Outlet and the
14 Atchafalaya River and its tributaries.

15 (c) For the equitable distribution of such waters to the regional potential
16 requirements for all uses, hydroelectric, domestic, municipal, and manufacturing,
17 provided that no generating capacity other than hydroelectric shall be installed by the
18 district. The district shall have no power to construct, own, or lease any electric
19 transmission or distribution lines. However, the district may construct, own, or lease
20 transmission lines in order to make electrical power generated by the district
21 available for purchase through a connection to transmission lines of an electrical
22 system purchasing electric power from the district. All plans and all works provided
23 by the district shall have primary regard to the necessary and potential needs for
24 water.

25 (d) To control and make available for employment of such waters in the
26 development of commercial and industrial enterprises in all sections of the area
27 within the watershed of the Wax Lake Outlet and the Atchafalaya River and its
28 tributaries and to make contracts with the United States with reference thereto.

1 (e) For the control and employment of the waters of the watershed area of
2 the Wax Lake Outlet and the Atchafalaya River and its tributaries, including storm
3 and flood waters, in the development and distribution of hydroelectric power.

4 (11) To utilize the waters of the Wax Lake Outlet and the Atchafalaya River
5 for the generation of electric power, to sell the use of the water of such waterways
6 for the production of electric power, to provide or furnish power and to that end to
7 construct, maintain, operate, or lease any or all hydroelectric generating facilities
8 within its territorial jurisdiction useful for such purpose.

9 (12) To purchase or construct all works and facilities necessary or
10 convenient to the exercise of the foregoing powers and to accomplish the purposes
11 specified in this Chapter, and to purchase or otherwise acquire, within its territorial
12 jurisdiction all real and personal property necessary or convenient for carrying out
13 such purposes.

14 (13) To enter into any and all contracts and other agreements with any
15 person, any public or private entity, any government or governmental agency,
16 including the United States of America, the state of Louisiana, and the agencies,
17 departments, and political subdivisions thereof, which contracts and other
18 agreements may provide for the sale and utilization of the hydroelectricity generated.

19 B. Title to all property acquired by the district shall be taken in its corporate
20 name and shall be held by it as an instrumentality of the state of Louisiana. The
21 district shall have and be recognized to exercise such authority and power of control
22 and regulation over the waters of the Wax Lake Outlet and the Atchafalaya River and
23 its tributaries as may be exercised by the state of Louisiana, subject to the provisions
24 of the Constitution of Louisiana.

25 C. Nothing in this Chapter is intended to restrict the use of water from the
26 Wax Lake Outlet or the Atchafalaya River for any reason other than hydroelectric
27 power generation; however, during any time period that the district restricts the use
28 of water for electric generation or is prevented from generating electricity, the utility
29 shall not pay the district for power that it was prevented from generating.

1 §4550.5. Cooperation with federal and state agencies

2 The board may cooperate with the government of the United States and may
3 contribute financially to the expense of such improvement projects as are or may be
4 authorized or adopted by the United States; it may also cooperate with all agencies,
5 departments, and subdivisions of the state of Louisiana in all undertakings, the
6 purpose of which shall be the furtherance of the objects and purposes for which the
7 district is created and the authority to cooperate with any such agency of the state or
8 federal government shall include the authority to contract with any such agency and
9 to accept any grant or gratuity made for any of the purposes of this Chapter.

10 §4550.6. Authority of state agencies to cooperate; construction of facilities

11 A. There is hereby expressly conferred upon the state of Louisiana, its
12 departments, and agencies and upon the political subdivisions of the state, the
13 authority to cooperate with the board to make contributions or grants to the district
14 for any of the purposes of this Chapter and to enter into contracts and agreements
15 with the district in furtherance of any of the purposes of this Chapter.

16 B. The district may locate, construct, operate, and maintain any of its works
17 or facilities over, under, through, in, or along any of the lands which are the property
18 of the state or of any subdivision, institution, agency, or instrumentality thereof,
19 within its territorial jurisdiction without the obtaining of consents, licenses, or
20 permits other than the consent herein granted.

21 C.(1) The district and its authorized agents and employees shall have the
22 privilege of entering upon any lands, waters, and premises in the state for the purpose
23 of making surveys, soundings, drillings, examinations, and appraisals as it may deem
24 necessary or convenient for the purposes of this Chapter and such entry shall not be
25 deemed a trespass nor shall such entry for such purpose be deemed an entry under
26 any expropriation proceedings which may be pending, provided that five days
27 registered notice in the case of resident owners and fifteen days registered notice in
28 the case of nonresident owners be given to the owner of record as reflected by the

1 parish assessment rolls, which notice shall be mailed to the last known address of
2 said owner, as shown on said assessment records.

3 (2) The district shall make reimbursement for any actual damages resulting
4 to such lands, water, or premises as a result of such activities.

5 D. So far as authority is vested in the legislature to grant such right, the
6 district is hereby expressly granted and vested with full right to use all waters and to
7 possess all water rights in the waters of the Wax Lake Outlet and the Atchafalaya
8 River and its tributaries necessary to the carrying out of its corporate objectives, and
9 the right herein so vested in the district shall be prior and superior to all other rights
10 in such waters, provided only that water and riparian rights now vested in private
11 persons or entities shall not be taken or damaged without the paying of adequate
12 compensation therefor, which compensation shall be determined in the manner
13 provided for the expropriation of property.

14 §4550.7. Bonds

15 A.(1) For the purpose of providing funds for the acquisition, by purchase,
16 construction or otherwise, of any property or facilities which the district is authorized
17 to acquire pursuant to this Chapter, including the acquisition of water rights, and for
18 extending and improving any such property and facilities, the district may incur debt
19 and issue revenue bonds to be secured by the fees, assessments, or any revenues
20 collected by the district for the purposes of the district. There may be included in the
21 amount of any such bond issue reasonable allowance for legal, engineering, and
22 fiscal services, interest during construction and for one year after the estimated date
23 of completion of construction, and other expenses in connection with the
24 authorization and issuance of the bonds and the acquisition or construction of the
25 improvements.

26 (2) Revenue bonds of the district shall be issued in the manner as provided
27 in Part XII or Part XIII of Chapter 4 of Subtitle II of Title 39 of the Louisiana
28 Revised Statutes of 1950 or any other applicable law. Revenue bonds issued under
29 this Section shall be authorized by resolution of the district and shall be limited

1 obligations of the district, the principal of and interest on which shall be payable
2 solely from the revenues as provided in Paragraph (1) of this Subsection or from
3 income and revenue derived from the sale, lease, or other disposition of the project
4 or facility to be financed by the bonds, from the income and revenue derived from
5 the sale, lease, or other disposition of any existing project or facility acquired,
6 constructed, and improved under the provisions of this Section, or from any other
7 income or revenue derived from any project or facility so financed or any such
8 existing project or facility; however, in the discretion of the district, the bonds may
9 be additionally secured by mortgage or other security device covering all or part of
10 the project from which the revenues so pledged may be derived. Any refunding
11 bonds issued pursuant to this Subsection shall be payable from any source described
12 above or from the investment of any of the proceeds of the refunding bonds
13 authorized under this Section and shall not constitute an indebtedness or pledge of
14 the general credit of the district within the meaning of any constitutional or statutory
15 limitation of indebtedness and shall contain a recital to that effect. Bonds of the
16 district shall be issued in such form, shall be in such denominations, shall bear
17 interest, shall mature in such manner, and shall be executed as provided in the
18 resolution authorizing the issuance thereof. The bonds may be subject to redemption
19 at the option of and in the manner determined by the board in the resolution
20 authorizing the issuance thereof.

21 (3) The district may in its own name and behalf borrow from time to time in
22 the form of certificates of indebtedness. The certificates shall be secured by the
23 dedication and pledge of monies of the district derived from any lawful sources,
24 including those revenues as provided in Paragraph (1) of this Subsection and any
25 other sources of income or revenue of the district, or any combination of such
26 sources, provided that the term of such certificates shall not exceed ten years and the
27 annual debt service on the amount borrowed shall not exceed the anticipated
28 revenues to be dedicated and pledged to the payment of the certificates of
29 indebtedness, as shall be estimated by the board of the district at the time of the

1 adoption of the resolution authorizing the issuance of such certificates. The estimate
2 of the board referred to in the authorizing resolution shall be conclusive for all
3 purposes of this Section.

4 (4) Bonds, certificates, or other evidences of indebtedness issued by the
5 district pursuant to this Section are deemed to be securities of public entities within
6 the meaning of Chapters 13 and 13-A of Title 39 of the Louisiana Revised Statutes
7 of 1950, and shall be subject to defeasance in accordance with the provisions of
8 Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, and may be
9 refunded in accordance with the provisions of Chapters 14-A and 15 of Title 39 of
10 the Louisiana Revised Statutes of 1950, and may also be issued as short-term
11 revenue notes of a public entity under Chapter 15-A of Title 39 of the Louisiana
12 Revised Statutes of 1950.

13 (5) The issuance and sale of bonds, certificates of indebtedness, notes, or
14 other evidence of debt by the district shall be subject to approval by the State Bond
15 Commission.

16 (6) Any resolution authorizing the issuance of bonds pursuant to this Chapter
17 may contain covenants, including but not limited to:

18 (a) The purpose or purposes to which the proceeds of the sale of the bonds
19 may be applied and the deposit, use, and disposition thereof.

20 (b) The use, deposit, securing of deposits, and disposition of the revenues of
21 the district, including the creation and maintenance of reserves.

22 (c) The issuance of additional obligations payable from the revenues of the
23 district.

24 (d) The operation and maintenance of the properties of the district.

25 (e) The insurance to be carried thereon and the use, deposit, and disposition
26 of insurance moneys.

27 (f) Books of account and records and the inspection and audit thereof and the
28 accounting methods of the district.

29 (g) The non-rendering of any free service by the district.

1 (h) The preservation of the properties of the district free from any mortgage,
2 sale, lease, or other encumbrance not specifically permitted by the terms of the
3 resolution.

4 (i) The appointment and the powers and duties of any trustee who may be
5 named in such resolution for the purpose of carrying out functions designed to
6 safeguard the security of such bonds.

7 (7) While any bonds are outstanding hereunder it shall be the duty of the
8 board to fix and from time to time to revise the rates of compensation for all
9 commodities and services sold or rendered by the district which will be fully
10 adequate to pay the expenses of operating and maintaining the district and its
11 properties, to pay principal of and interest on its obligations promptly as principal
12 and interest fall due, and to carry out all of the provisions and covenants of the
13 resolution or resolutions authorizing such bonds. Nothing contained in this Section
14 shall be so construed as to prevent the execution of leases or agreements by the
15 district providing for the lease of properties of the district or the sale of commodities
16 and services sold or rendered by the district at fixed rentals or prices for a term of
17 years, provided that the rentals or prices so named are at the time of the execution
18 of any such lease or agreement, together with the other reasonably anticipated
19 revenues of the district, sufficient to assure the ability of the district to carry out the
20 requirements of this Chapter and the requirements of the resolution or resolutions
21 authorizing its bonds.

22 (8) Such bonds, certificates of indebtedness, notes, or other evidence of debt
23 shall have all the qualities of negotiable instruments under the commercial laws of
24 the state of Louisiana.

25 §4550.8. Contesting validity of bonds; contracts

26 Bonds and any other evidences of indebtedness of the district shall be issued,
27 sold, and delivered in accordance with the terms and provisions of a resolution
28 adopted by the board. For a period of thirty days from the date of publication of any
29 resolution or ordinance authorizing the issuance of any bonds, certificates of

1 indebtedness, notes, or other evidence of debt of the district, any interested person
2 may contest the legality of such resolution or ordinance and the validity of such
3 bonds, certificates of indebtedness, notes, or other evidence of debt issued or
4 proposed to be issued thereunder and the security of their payment, after which time
5 no one shall have any cause of action to contest the legality of said resolution or
6 ordinance or to draw in question the legality of said bonds, certificates of
7 indebtedness, notes, or other evidence of debt, the security therefor, or the debts
8 represented thereby for any cause whatever, and it shall be conclusively presumed
9 that every legal requirement has been complied with, and no court shall have
10 authority to inquire into such matters after the lapse of thirty days.

11 §4550.9. Acquisition of lands, servitudes, and rights-of-way

12 A. There is expressly conferred upon the district, the right to acquire lands,
13 servitudes, and rights-of-way for any of the purposes of this Chapter, by purchase,
14 exchange, expropriation, or otherwise.

15 B. Should the district acquire the ownership of any timber it may sell the
16 same in the following manner:

17 (1) The district shall offer the timber for sale at public auction after having
18 first given public notice of such sale in the manner provided by law.

19 (2) If no satisfactory bid is received, the district may sell the timber at
20 private sale to any purchaser for any amount greater than the amount offered by the
21 highest bidder at the public auction.

22 §4550.10. Budget; administrative costs; revenues

23 A. The district shall develop and adopt an initial five-year projected
24 administrative budget. The district shall thereafter develop and adopt an annual
25 budget for administrative costs based upon a baseline established by the projected
26 budget.

27 B.(1) Beginning the first year in which the district develops and adopts an
28 annual budget for administrative costs, at least ninety percent of all revenues earned
29 by the district shall be used to provide hurricane protection for electrical

1 transmission and distribution in St. Mary Parish. The goal of any such protection
2 shall be to minimize damage to critical infrastructure and increase the resiliency of
3 electrical transmission and distribution systems.

4 (2) The district may enter into a cooperative endeavor agreement for such
5 purpose with any electrical system providing services in St. Mary Parish regardless
6 of whether any such system is privately owned, publicly owned, or part of a
7 cooperative.

8 (3) Any hurricane protection provided on behalf of the district shall be
9 considered a public purpose.

10 (4) Beginning the first year in which the district develops and adopts an
11 annual budget for administrative costs and each year thereafter, no more than ten
12 percent of the revenues earned by the district shall be used for administrative costs.

13 §4550.11. Conflicts; approval of projects

14 All actions or activities taken pursuant to this Chapter shall be taken or
15 implemented only to the extent such actions or activities are not in conflict with and
16 are consistent with the Atchafalaya Basin Master Plan or Annual Basin Plan and the
17 Coastal Protection and Restoration Authority's Master Plan for coastal protection and
18 restoration for a sustainable coast. Furthermore, any project authorized by the
19 district which may impact water flow or water levels within the Atchafalaya Basin,
20 as defined by R. S. 30:2000.2, or through Wax Lake Outlet or the Atchafalaya River
21 shall be approved in advance by the Atchafalaya Basin Research and Promotion
22 Board and the Coastal Protection and Restoration Authority.

23 §4550.12. Chapter as complete authority; audits and reports; construction of
24 Chapter

25 A. This Chapter shall be full, complete, and independent authority for the
26 performance of all acts authorized by this Chapter, and no other statute or legislative
27 act shall be construed to be applicable to the carrying out of the powers granted by
28 this Chapter unless expressly so made applicable. No publication of any notice or
29 proceeding shall be necessary except as expressly provided in this Chapter, nor shall

1 any proceedings adopted by the board be subject to referendum nor to any election
2 requirement.

3 B.(1) A complete book of accounts shall be kept by the district. Within one
4 hundred eighty days after the close of each fiscal year, the account books and records
5 of the district and of the depository of the district shall be audited by the legislative
6 auditor, or a certified public accountant, in such manner as to enable him to report
7 to the legislature as to the manner and purpose of the expenditure of all funds of the
8 district, and a report thereon shall be submitted at the first regular meeting of the
9 board thereafter.

10 (2) Two copies of such report shall be filed in the office of the district; one
11 shall be filed with the legislative auditor. All of such copies shall be open to public
12 inspection.

13 C. This Chapter, being intended to carry out a function of the state to protect
14 the health and welfare of the inhabitants of the portion of the state to be affected
15 hereby, shall be liberally construed by the courts to effect its purposes.

16 Section 2. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Sam Jones

HB No. 785

Abstract: Creates the St. Mary Hydroelectric Authority as a political subdivision in St. Mary Parish and provides for the governance and powers and duties of the district. Provides for district funding.

Proposed law creates the St. Mary Hydroelectric Authority as a political subdivision of the state, to be comprised of all of the territory in St. Mary Parish lying within the watershed of the Wax Lake Outlet and the Atchafalaya River and their tributaries. The district shall be domiciled in St. Mary Parish.

Proposed law provides that the district shall be governed by a board of 11 commissioners composed as follows:

- (1) The state representative who represents House District No. 50, or his designee.
- (2) The state representative who represents House District No. 51, or his designee.
- (3) The state senator who represents Senate District No. 21, or his designee.
- (4) Two members appointed by the president of St. Mary Parish, subject to the approval of the parish governing authority.
- (5) One member appointed by the mayor of the town of Baldwin, subject to the approval of the municipal governing authority.
- (6) One member appointed by the mayor of the town of Berwick, subject to the approval of the municipal governing authority.
- (7) One member appointed by the mayor of the city of Franklin, subject to the approval of the municipal governing authority.
- (8) One member appointed by the mayor of the city of Morgan City, subject to the approval of the municipal governing authority.
- (9) One member appointed by the mayor of the city of Patterson, subject to the approval of the municipal governing authority.
- (10) One member appointed by the chief of the sovereign nation of the Chitimacha Tribe of La., subject to the approval of the tribal council, or one member appointed pursuant to any method determined by the tribal council.

Requires appointed members to serve four-year staggered terms. Provides that elected officials shall serve during their term of office. Provides that a designee shall serve at the pleasure of the designating authority. Provides for reimbursement of expenses of board members. Otherwise provides members serve without compensation.

Provides for a chairman, vice chairman, and other officers elected by the board from its membership. Provides for a secretary, treasurer, or secretary-treasurer who shall not be a board member and authorizes the board to fix their compensation. Authorizes the board to hire employees, including engineers and attorneys and a general manager.

Proposed law provides that the district shall be an agency and instrumentality of the state required by the public convenience and necessity for the carrying out of the functions of the state, and shall be a corporation and body politic and corporate, with power of perpetual succession, invested with all powers, privileges, rights, and immunities conferred by law upon other corporations of like character, including but not limited to port authorities, port commissions, and port, harbor, and terminal districts within the state.

Proposed law provides that the district shall not have the power to levy taxes but it may assess and collect charges, fees, and rentals for the use of its properties and facilities and for the construction, installation, maintenance, and operation of such properties or facilities owned by it or in which it has an interest.

Proposed law provides that the district and its operating income shall be exempt from taxation within the state. Additionally provides that any bonds issued pursuant to proposed law and their transfer and income therefrom shall be exempt from taxation within the state.

Proposed law provides that the district shall not be deemed to be an instrumentality of the state for purposes of the state civil service provisions of the state constitution.

Proposed law provides for the powers and duties of the district, including but not limited to the following:

- (1) To have a corporate seal.
- (2) To acquire by purchase, gift, devise, lease, expropriation, or other mode of acquisition, to hold, pledge, encumber, lease, and dispose of real and personal property of every kind within its territorial jurisdiction, whether or not subject to mortgage or any other lien.
- (3) To make and enter into contracts, conveyances, mortgages, deeds or trusts, bonds, and leases in the carrying out of its corporate objectives, including but not limited to contracts for the legal services of a special counsel.
- (4) To let contracts for construction or acquisition of property and facilities.
- (5) To incur debts and borrow money, but no debt so incurred shall be payable from any source other than the revenues to be derived by the district from sources other than taxation.
- (6) To fix, maintain, collect, and revise rates, charges, and rentals for the facilities of the district and the services rendered thereby, including but not limited to all charges for services and goods provided by or through the Wax Lake Outlet and the Atchafalaya River.
- (7) To enter into agreements of any nature with any person, corporation, association, or other entity, including public corporations, political subdivisions, municipalities, and federal and state agencies and instrumentalities of every kind, for the operation of all or any part of the properties and facilities of the district.
- (8) To control in order to utilize and distribute the waters of the rivers and streams of the Wax Lake Outlet and the Atchafalaya River watershed, including but not limited to all waters flowing through the Wax Lake Outlet and the Atchafalaya River. Provides for the district to provide for the use and regulation of such waters, to preserve the rights of people in the watershed in beneficial use of the waters, to provide for equitable distribution of waters for potential uses, to provide for use of waters for commercial and industrial enterprises, and for use of waters for development and distribution of hydroelectric power. Specifies that the district shall not construct, own, or lease any electric transmission or distribution lines. However, authorizes the district to construct, own, or lease electric transmission lines in order to make electrical power generated by the district available for purchase through a connection to transmission lines of an electrical system purchasing electric power from the district.
- (9) To utilize the waters of the Wax Lake Outlet and the Atchafalaya River for the generation of electric power, to sell the use of the water of such waterways for the production of electric power, to provide or furnish power and to that end to construct, maintain, operate, or lease any or all hydroelectric generating facilities within its territorial jurisdiction useful for such purpose.
- (10) To purchase or construct facilities and to purchase or otherwise acquire property.
- (11) To enter into contracts for sale and use of hydroelectricity.

Proposed law provides that it does not intend to restrict use of water from the Wax Lake Outlet or Atchafalaya River for other purposes. Provides that the utility shall not pay the district for power it is prevented from generating due to restrictions on water use.

Proposed law grants the district such authority and power to control and regulate the waters of the Wax Lake Outlet and the Atchafalaya River and its tributaries as may be exercised by the state, subject to the La. constitution.

Proposed law authorizes the board to cooperate with the U.S. government and to contribute financially to the expense of such improvement projects as are or may be authorized or adopted by the U.S. Further authorizes the district to cooperate with all agencies, departments, and subdivisions of the state in all undertakings, the purpose of which will be the furtherance of the objects and purposes for which the district is created. Confers upon the state, its departments, agencies, and political subdivisions the authority to make contributions or grants to the district and to enter into contracts or agreements for any purposes of proposed law.

Proposed law authorizes the district to locate, construct, operate, and maintain any of its works or facilities over, under, through, in, or along any of the lands which are the property of the state, its subdivisions or instrumentalities. Further authorizes the district and its authorized agents and employees to enter upon any lands, waters, and premises in the state for certain purposes. Requires certain notice and reimbursement of damages.

Proposed law grants the district the right to use all waters and to possess all water rights in the waters of the Wax Lake Outlet and the Atchafalaya River and its tributaries necessary for district purposes, which right shall be superior to all other rights in such waters. Requires that water and riparian rights of private persons or entities not be taken or damaged without adequate compensation.

Proposed law provides that for the purpose of providing funds for the acquisition of any property or facilities which the district is authorized to acquire, including the acquisition of water rights, and for extending and improving any such property and facilities, the district may from time to time incur debt and issue revenue bonds. Authorizes refunding bonds, certificates of indebtedness, and other debt. Provides further with respect to such bonds.

Proposed law grants the district the right to acquire lands, servitudes, and rights-of-way by purchase, exchange, expropriation, or otherwise. Provides for sale of any timber the district may acquire.

Proposed law requires that the district develop and adopt an initial five-year projected administrative budget and to thereafter develop and adopt an annual budget for administrative costs based upon a baseline established by the projected budget.

Proposed law requires the district, beginning the first year in which the district adopts an annual budget for administrative costs, to use at least 90% of its revenues to provide hurricane protection for electrical transmission and distribution in St. Mary Parish. Authorizes the district to enter into a cooperative endeavor agreement for such purpose with any electrical system providing services in St. Mary Parish. Provides that no more than 10% of revenues earned by the district shall be used for administrative costs after the initial five-year period.

Proposed law provides that activities pursuant to proposed law are subject to specified plans adopted pursuant to present law for the Atchafalaya Basin and coastal protection. Further requires that any activity pursuant to proposed law that impacts water flow or water levels is subject to the approval of the Atchafalaya Basin Research and Promotion Board and the Coastal Protection and Restoration Authority.

Proposed law requires the district to keep a complete book of accounts. Requires, within 180 days after the close of each fiscal year, that the account books and records of the district and of the district's depository be audited by the legislative auditor, or a CPA, in such manner as to enable him to report to the legislature as to the manner and purpose of the expenditure of all funds of the district. Requires that two copies of the report be filed in the office of the district, one filed with the legislative auditor.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 33:4550.1-4550.12)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Authorizes the district to construct, own, or lease electric transmission lines in order to make electrical power generated by the district available for purchase through a connection to transmission lines of an electrical system purchasing electric power from the district.
2. Removes provisions of proposed law that provide that the district shall have the advice and the services of the Dept. of Transportation and Development.

House Floor Amendments to the engrossed bill.

1. Adds provision that activities pursuant to proposed law are subject to other plans for the Atchafalaya Basin and coastal protection and requiring that any activity pursuant to proposed law that impacts water flow or water levels is subject to the approval of the Atchafalaya Basin Research and Promotion Board and the Coastal Protection and Restoration Authority.